

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Case No. 1:03-cr-112
	)	
v.	)	Honorable David W. McKeague
	)	
DOUGLAS EMMANUEL CAREY, III,	)	
	)	
Defendant.	)	<b><u>ORDER</u></b>
	)	

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On February 22, 2005, defendant filed a motion entitled “Motion New Ruling in the Supreme Court.” (docket # 49). The magistrate judge entered an order advising defendant of the court’s intention to treat his motion as a motion brought under 28 U.S.C. § 2255, unless defendant advised the court to the contrary. The magistrate judge’s order accurately set forth defendant’s options in this regard. Defendant has now filed a letter notifying the Clerk of his option to withdraw the “Motion New Ruling in the Supreme Court,” and his desire to submit a section 2255 motion setting forth all claims. (docket # 51). The court will therefore dismiss defendant’s pending motion without prejudice. Defendant remains free to bring a proper section 2255 motion raising all claims that he wishes to assert. Defendant is again advised that a section 2255 motion must be brought within one year of the time that defendant’s conviction became final. Because defendant did not appeal his conviction, it became final ten days after the entry of judgment. *See Sanchez-Castellano v. United States*, 358 F.3d 424, 427 (6th Cir. 2004). Accordingly:

IT IS ORDERED that defendant's "Motion New Ruling in the Supreme Court"  
(docket # 49) be and hereby is DISMISSED without prejudice.

Dated: April 27, 2005

/s/ David W. McKeague  
David W. McKeague  
United States District Judge